



DEPARTMENT OF HOMELAND SECURITY

U.S. Immigration and Customs Enforcement

[Docket No. ICEB-2022-0014]

RIN 1653-ZA34

Employment Authorization for Haitian F-1 Nonimmigrant Students Experiencing Severe Economic Hardship as a Direct Result of the Current Crisis in Haiti

AGENCY: U.S. Immigration and Customs Enforcement; Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice announces that the Secretary of Homeland Security (Secretary) is suspending certain regulatory requirements for F-1 nonimmigrant students whose country of citizenship is Haiti, regardless of country of birth (or individuals having no nationality who last habitually resided in Haiti), and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. The Secretary is taking action to provide relief to these Haitian students who are in lawful F-1 nonimmigrant student status so the students may request employment authorization on the date of publication of this notice, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain their F-1 nonimmigrant student status. The U.S. Department of Homeland Security (DHS) will deem an F-1 nonimmigrant student granted employment authorization by means of this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the nonimmigrant student satisfies the minimum course load requirement described in this notice.

DATES: This action is effective February 4, 2023, through August 3, 2024.

FOR FURTHER INFORMATION CONTACT: Sharon Snyder, Unit Chief, Policy and Response Unit, Student and Exchange Visitor Program, MS 5600, U.S. Immigration and Customs Enforcement, 500 12th Street, SW, Washington, DC 20536-5600; e-mail: sevp@ice.dhs.gov, telephone: (703) 603-3400. This is not a toll-free number. Program information can be found at <https://www.ice.gov/sevis/>.

SUPPLEMENTARY INFORMATION:

What action is DHS taking under this notice?

The Secretary is exercising authority under 8 CFR 214.2(f)(9) to temporarily suspend the applicability of certain requirements governing on-campus and off-campus employment for F-1 nonimmigrant students whose country of citizenship is Haiti, regardless of country of birth (or individuals having no nationality who last habitually resided in Haiti), who are present in the United States in lawful F-1 nonimmigrant student status on the date of publication of this notice, and who are experiencing severe economic hardship as a direct result of the current crisis in Haiti. DHS initially suspended certain regulatory requirements for F-1 nonimmigrant students experiencing severe economic hardship as a direct result of the January 12, 2010, earthquake in Haiti. *See* 75 FR 56120 (Sep. 15, 2010). The original notice was effective from September 15, 2010, until July 22, 2011. A subsequent notice provided for an 18-month extension from July 22, 2011, through January 22, 2013. *See* 76 FR 28997 (May 19, 2011). A third notice provided another 18-month extension from January 22, 2013, through July 22, 2014. *See* 77 FR 59942 (Oct. 1, 2012). A fourth notice provided for another 18-month extension from July 22, 2014, through January 22, 2016. *See* 79 FR 11805 (Mar. 3, 2014). A fifth notice provided for another 18-month extension from January 22, 2016, through July 22, 2017. *See* 80 FR 51579 (Aug. 25, 2015). Most recently, DHS issued a notice which applied to F-1 nonimmigrant students who met certain criteria, including having been lawfully present in the United States in F-1 nonimmigrant status on August 3, 2021, and was

effective from August 3, 2021, until February 3, 2023. *See* 86 FR 41857 (Aug. 3, 2021).

Effective with this publication, suspension of the employment limitations is available through August 3, 2024, for those who are in lawful F-1 nonimmigrant status on the date of publication of this notice. DHS will deem an F-1 nonimmigrant student granted employment authorization through this notice to be engaged in a “full course of study” for the duration of the employment authorization, if the student satisfies the minimum course load set forth in this notice.¹ *See* 8 CFR 214.2(f)(6)(i)(F).

Who is covered by this notice?

This notice applies exclusively to F-1 nonimmigrant students who, on the date of publication of this notice, meet all of the following conditions:

(1) Are a citizen of Haiti, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti);

(2) Were lawfully present in the United States in F-1 nonimmigrant status under section 101(a)(15)(F)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. 1101(a)(15)(F)(i);

(3) Are currently enrolled in an academic institution that is Student and Exchange Visitor Program (SEVP)-certified for enrollment for F-1 nonimmigrant students;

(4) Are currently maintaining F-1 nonimmigrant status; and

(5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

¹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice. DHS also considers students who engage in online coursework pursuant to U.S. Immigration and Customs Enforcement (ICE) coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Nov. 30, 2022).

This notice applies to F-1 nonimmigrant students in an approved private school in kindergarten through grade 12, public school grades 9 through 12, and undergraduate and graduate education. An F-1 nonimmigrant student covered by this notice who transfers to another SEVP-certified academic institution remains eligible for the relief provided by means of this notice.

Why is DHS taking this action?

DHS is taking action to provide relief to Haitian F-1 nonimmigrant students experiencing severe economic hardship due to the current and ongoing crisis in Haiti. Based on its review of country conditions in Haiti and input received from the U.S. Department of State (DOS), DHS is taking action to allow eligible F-1 nonimmigrant students from Haiti (or individuals having no nationality who last habitually resided in Haiti) to request employment authorization, work an increased number of hours while school is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

Overview

DHS has conducted a thorough review of country conditions in Haiti. Haiti is experiencing economic, security, political, and health crises simultaneously. Fractured political dynamics and dysfunctional government entities are exacerbating a violent increase in gang conflict. At the same time, Haiti is confronting a humanitarian crisis, with many citizens having limited access to safety, healthcare, food, water, and economic opportunity. These circumstances continue to make return to Haiti dangerous for Haitian nationals living in the United States.

Political Situation

The Haitian Parliament was dissolved in January 2020 as the mandates of two thirds of Senate members and all Chamber of Deputies members expired, and no new

elections were held.² On July 7, 2021, President Jovenel Moïse was assassinated in his private residence in Port-au-Prince. Subsequently, Ariel Henry, whom Moïse had appointed prime minister days before the assassination, was installed as head of a new government.

Since then, PM Henry and opposition groups have engaged in intermittent negotiations about a political path towards elections. On December 21, representatives of civil society, the private sector, and political groups began signing a revised political agreement known as the December Accord, which was supported by PM Henry. Some opposition members, including many members of the Citizen Conference for a Haitian Solution to the Crisis, also known as the Montana Group, had not yet agreed to the accord as of January 4.

The Haitian government has long been accused of corruption and ineptitude. Politicians and the business elite in Haiti have historically relied on gangs to obtain and exert power, but the gangs have grown more autonomous in recent years.³ An International Crisis Group report stated “collusion between state security forces and illegal armed groups has flourished in the absence of political will to hold corrupt officers accountable and because of efforts of those in power to deploy the police (as well as gangs) to serve their personal interests.”⁴

Security Situation

Since President Moïse’s assassination, Haiti has experienced a sharp deterioration in an already fragile security situation. Gang violence and kidnappings have spiked throughout the country, particularly in the capital, Port-au-Prince. The UN documented

² Freedom House, *Freedom in the World 2022 – Haiti* (Feb. 28, 2022), <https://freedomhouse.org/country/haiti/freedom-world/2022>.

³ Diego Da Rin, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists*, International Crisis Group (July 27, 2022), <https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists>.

⁴ International Crisis Group, *New Gang Battle Lines Scar Haiti as Political Deadlock Persists* (July 27, 2022), <https://www.crisisgroup.org/latin-america-caribbean/haiti/new-gang-battle-lines-scar-haiti-political-deadlock-persists>.

934 killings, 684 injuries, and 680 kidnappings in Port-au-Prince from January to June 2022.⁵ In one 10-day period in July, more than 200 people were killed in gang violence in Port-au-Prince; nearly half of the decedents had no gang ties.⁶

There are around 200 gangs across Haiti, 95 of which operate in metropolitan Port-au-Prince. Many of Haiti's gangs have coalesced around two main alliances: the G9 and the GPèp. A two-party gang rivalry fought on numerous fronts has superseded the old local rivalries. Gangs have decapitated opponents in public, burnt corpses in the street, set fire to houses, and used sexual violence to intimidate residents out of collaborating with their rivals.⁷ Clashes between rival gangs led to particularly high levels of gang violence in April and May 2022, leading to the temporary closure of dozens of schools, medical centers, businesses, and markets, making it difficult for people to find basic products including food, water, and medicines. In May 2022, UN High Commissioner for Human Rights Michelle Bachelet described armed violence in Haiti as “unimaginable and intolerable” and stated that “violence has had a severe impact on the most basic human rights of people.” Also in May, Doctors Without Borders warned that kidnappings for ransom that target many residents of Port-au-Prince, including medical personnel, were making it increasingly difficult for the population to access healthcare. Gangs in Port-au-Prince targeted homeless and at-risk teens as participants in gang violence. In July 2022, the UN Office for the Coordination of Humanitarian Affairs (UNOCHA) estimated that more than a third of Port-au-Prince was under the control of gangs.⁸

⁵ Haiti: UN sounds alarm over worsening gang violence across Port-au-Prince, UN News, July 16, 2022, <https://news.un.org/en/story/2022/07/1122662#:~:text=%E2%80%99CWe%20have%20so%20far%20documented,Soleil%20area%20of%20the%20city.%E2%80%9D>.

⁶ BBC News, *Haiti Gang Violence: 209 killed in Cité Soleil in 10 days*, July 26, 2022, <https://www.bbc.com/news/world-latin-america-62292007>.

⁷ *Id.*

⁸ UN OCHA, *Haiti: Impact of the deteriorating security situation on humanitarian access: Background Note* (July 8, 2022), <https://reliefweb.int/report/haiti/haiti-impact-deteriorating-security-situation-humanitarian-access-background-note-8-july-2022>.

In mid-September, gangs blocked access to the Varreux Terminal in Port-au-Prince, the main entry point for fuel in Haiti, cutting off millions of gallons of diesel and gasoline and causing a severe fuel shortage.⁹ The fuel blockage paralyzed Haiti's economy.¹⁰ Health centers and hospitals had to close, and the distribution of water was interrupted.¹¹ The lack of access to clean water contributed to the outbreak of cholera in early October, and complicated efforts to respond to and contain the outbreak.¹²

On October 7, 2022, the government of Haiti requested assistance from the international community to confront gangs and address the humanitarian crisis.¹³ In an October 12, 2022 Press Statement, U.S. Secretary of State Antony Blinken emphasized the critical nature of the humanitarian situation in Haiti, noting that the United States is committed to continuing to help Haiti address the crisis through multiple avenues.¹⁴ On October 15, the U.S. and Canada delivered Haitian National Police-purchased armored vehicles and other law enforcement equipment to assist in re-taking the terminal. A Haitian National Police operation on November 5-6 successfully re-gained control of the fuel terminal. The relatively small size of the Haitian National Police remains concerning. Out of 14,161 officers, 13,000 officers are assigned to law enforcement activities, with the ratio of police officers to the population standing at 1.06 police officers per 1,000 inhabitants. This is well below the United Nations-suggested international ratio of 2.2 per 1,000.

⁹ PBS NewsHour, *Haiti reaches a breaking point as the economy tanks and violence soars* (Oct. 4, 2022), <https://www.pbs.org/newshour/world/haiti-reaches-a-breaking-point-as-the-economy-tanks-and-violence-soars>.

¹⁰ Brian Ellsworth and Harold Isaac, *UN calls for 'humanitarian corridor' in Haiti as gang blockade drags on*, Reuters, Oct. 6, 2022, <https://www.reuters.com/world/americas/un-calls-humanitarian-corridor-haiti-gang-blockade-drags-2022-10-06/>.

¹¹ UN News, *Haiti: Fuel crisis prompts appeal for humanitarian corridor amid cholera outbreak*, Oct. 6, 2022, <https://news.un.org/en/story/2022/10/1129317>.

¹² *Id.*

¹³ Reuters, *Haiti's situation is dire and cannot persist, State Department says*, Oct. 11, 2022, <https://www.reuters.com/world/americas/haitis-situation-is-dire-cannot-persist-state-department-says-2022-10-11/>.

¹⁴ U.S. Department of State, Press Statement, *Steps to Address the Humanitarian and Security Situation in Haiti*, Oct. 12, 2022, <https://www.state.gov/steps-to-address-the-humanitarian-and-security-situation-in-haiti/>.

Humanitarian Situation

Haiti has one of the highest levels of chronic food insecurity in the world with more than half of its total population chronically food insecure and 22 percent of children chronically malnourished, according to a September 2022 report.¹⁵ As of October 2022, the total number of people in “acute” food insecurity stood at 4.7 million people, including 1.8 million people in the “emergency” phase on the World Food Program’s (WFP) Integrated Food Security Classification Index.¹⁶ For the first time ever, 19,000 Haitians are considered to be in the “catastrophe” phase (the most severe classification).¹⁷

The UN and the Haitian government have reported a new cholera outbreak, with the first cases detected between October 1-2, 2022.¹⁸ As of November 15, 2022, there were 8,146 hospitalized suspected cases and 821 confirmed cases of cholera, resulting in 188 deaths.¹⁹ The end of the two-month fuel terminal seizure allowed hospitals, water treatment plants, commercial water suppliers, and transportation networks to resume functioning, allowing for better access to cholera prevention and treatment. However, paradoxically, the availability of fuel also allowed for resumed mobility among the general population, potentially leading to increased cholera transmission. In November 2022, the UN launched a “Flash Appeal” requesting \$145.6 million to contain the outbreak and respond to other humanitarian needs throughout Haiti.²⁰ In addition to the cholera outbreak, as of August 1, 2022, only 1.4 percent of Haiti’s population had been

¹⁵ WFP, *WFP Haiti Country Brief, September 2022* (Sept. 30, 2022), <https://reliefweb.int/report/haiti/wfp-haiti-country-brief-september-2022>.

¹⁶ UN News, ‘Catastrophic’ hunger recorded in Haiti for first time, UN warns, Oct. 14, 2022, <https://news.un.org/en/story/2022/10/1129537#:~:text=According%20to%20the%20latest%20IPC,in%20Catastrophe%20phase%2C%20phase%205>.

¹⁷ *Id.*

¹⁸ Widlore Mérencourt, Kelly Kasulis Cho, and Amanda Coletta, The Washington Post, Cholera Resurfaces in Haiti as gangs hinder access to water, hospitals, Oct. 3, 2022, <https://www.washingtonpost.com/world/2022/10/03/haiti-cholera-gang-violence-water/>.

¹⁹ Pan American Health Organization, *Cholera Outbreak in Hispaniola, Situation Report #6*, Nov. 17, 2022, <https://www.paho.org/en/documents/cholera-outbreak-hispaniola-2022-situation-report-6>.

²⁰ UN Office for the Coordination of Humanitarian Affairs, *Haiti 2022 Cholera Flash Appeal (Mid Oct 2022 – Mid Apr 2023)*, Nov. 15, 2022, <https://reliefweb.int/report/haiti/haiti-2022-cholera-flash-appeal-mid-oct-2022-mid-apr-2023>.

fully vaccinated against COVID-19.²¹ Haiti ranks among the world's bottom 10 countries in terms of COVID-19 vaccination coverage.²²

Economic Situation

Amidst the political, security, and humanitarian crises, Haiti's economy has floundered. Haiti is among the countries with the greatest inequality in the region. The richest 20 percent of its population holds more than 64 percent of its total wealth, while the poorest 20 percent has less than 1 percent.²³ Latest estimates put the 2021 poverty rate at 52.3 percent up from 51 percent in 2020.²⁴ In 2021, Haiti had a GDP per capita of \$1,815, the lowest in the Latin America and the Caribbean (LAC) region and less than a fifth of the LAC average of \$15,092.²⁵ On the UN's Human Development Index,²⁶ Haiti ranked 170 out of 189 in 2020.²⁷

As of January 3, 2023, 1,004 F-1 nonimmigrant students who are Haitian citizens are enrolled at SEVP-certified academic institutions in the United States. Given the extent of the current crisis in Haiti, affected students whose primary means of financial support comes from Haiti may need to be exempt from the normal student employment requirements to continue their studies in the United States. The current crisis has made it unfeasible for many students to safely return to Haiti for the foreseeable future. Without employment authorization, these students may lack the means to meet basic living expenses.

²¹ Congressional Research Service, *Haiti: Political Conflict and U.S. Policy Overview* (Aug. 2, 2022), <https://crsreports.congress.gov/product/pdf/IF/IF12182>.

²² World Bank, *The World Bank approved \$35 million to improve Haiti's COVID-19 response* (June 11, 2022), <https://reliefweb.int/report/haiti/world-bank-approved-35-million-improve-haitis-covid-19-response>.

²³ World Bank, *The World Bank in Haiti Overview* (last updated June 14, 2022), <https://www.worldbank.org/en/country/haiti/overview>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ The Human Development Index (HDI) is a summary measure of average achievement in key dimensions of human development: a long and healthy life, being knowledgeable and have a decent standard of living. See UNDP, *Human Development Index (HDI)* (last visited Aug. 15, 2022), <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>.

²⁷ World Bank, *The World Bank in Haiti Overview* (last updated June 14, 2022), <https://www.worldbank.org/en/country/haiti/overview>.

What is the minimum course load requirement to maintain valid F-1 nonimmigrant status under this notice?

Undergraduate F-1 nonimmigrant students who receive on-campus or off-campus employment authorization under this notice must remain registered for a minimum of six semester or quarter hours of instruction per academic term. Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B) and (F). A graduate-level F-1 nonimmigrant student who receives on-campus or off-campus employment authorization under this notice must remain registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v). Nothing in this notice affects the applicability of other minimum course load requirements set by the academic institution.

In addition, an F-1 nonimmigrant student (either undergraduate or graduate) granted on-campus or off-campus employment authorization under this notice may count up to the equivalent of one class or three credits per session, term, semester, trimester, or quarter of online or distance education toward satisfying this minimum course load requirement, unless their course of study is in an English language study program.²⁸ *See* 8 CFR 214.2(f)(6)(i)(G). An F-1 nonimmigrant student attending an approved private school in kindergarten through grade 12 or public school in grades 9 through 12 must maintain “class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress toward graduation,” as required under 8 CFR 214.2(f)(6)(i)(E). Nothing in this notice affects the applicability of federal and state labor laws limiting the employment of minors.

²⁸ DHS considers students who are compliant with ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such COVID-19 guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, <https://www.ice.gov/coronavirus> (last visited Nov. 30, 2022).

May an eligible F-1 nonimmigrant student who already has on-campus or off-campus employment authorization benefit from the suspension of regulatory requirements under this notice?

Yes. An F-1 nonimmigrant student who is a Haitian citizen, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti), who already has on-campus or off-campus employment authorization and is otherwise eligible may benefit under this notice, which suspends certain regulatory requirements relating to the minimum course load requirement under 8 CFR 214.2(f)(6)(i) and certain employment eligibility requirements under 8 CFR 214.2(f)(9). Such an eligible F-1 nonimmigrant student may benefit without having to apply for a new Form I-766, Employment Authorization Document (EAD). To benefit from this notice, the F-1 nonimmigrant student must request that their designated school official (DSO) enter the following statement in the remarks field of the student's Student and Exchange Visitor Information System (SEVIS) record, which the student's Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status, will reflect:

Approved for more than 20 hours per week of [DSO must insert "on-campus" or "off-campus," depending upon the type of employment authorization the student already has] employment authorization and reduced course load under the Special Student Relief authorization from [DSO must insert the beginning date of the notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert either the student's program end date, the current EAD expiration date (if the student is currently authorized for off-campus employment), or the end date of this notice, whichever date comes first].²⁹

²⁹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice.

Must the F-1 nonimmigrant student apply for reinstatement after expiration of this special employment authorization if the student reduces his or her “full course of study”?

No. DHS will deem an F-1 nonimmigrant student who receives and comports with the employment authorization permitted under this notice to be engaged in a “full course of study”³⁰ for the duration of the student’s employment authorization, provided that a qualifying undergraduate level F-1 nonimmigrant student remains registered for a minimum of six semester or quarter hours of instruction per academic term, and a qualifying graduate level F-1 nonimmigrant student remains registered for a minimum of three semester or quarter hours of instruction per academic term. *See* 8 CFR 214.2(f)(5)(v) and (f)(6)(i)(F). Undergraduate F-1 nonimmigrant students enrolled in a term of different duration must register for at least one half of the credit hours normally required under a “full course of study.” *See* 8 CFR 214.2(f)(6)(i)(B) and (F). DHS will not require such students to apply for reinstatement under 8 CFR 214.2(f)(16) if they are otherwise maintaining F-1 nonimmigrant status.

Will an F-2 dependent (spouse or minor child) of an F-1 nonimmigrant student covered by this notice be eligible for employment authorization?

No. An F-2 spouse or minor child of an F-1 nonimmigrant student is not authorized to work in the United States and, therefore, may not accept employment under the F-2 nonimmigrant status, consistent with 8 CFR 214.2(f)(15)(i).

Will the suspension of the applicability of the standard student employment requirements apply to an individual who receives an initial F-1 visa and makes an

³⁰ *See* 8 CFR 214.2(f)(6).

initial entry into the United States after the effective date of this notice in the Federal Register?

No. The suspension of the applicability of the standard regulatory requirements only applies to certain F-1 nonimmigrant students who, on the date of publication of this notice, meet the following conditions:

- (1) Are a citizen of Haiti, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti);
- (2) Were lawfully present in the United States in F-1 nonimmigrant status, under section 101(a)(15)(F)(i) of the INA, 8 U.S.C. 1101(a)(15)(F)(i);
- (3) Are enrolled in an academic institution that is SEVP-certified for enrollment of F-1 nonimmigrant students;
- (4) Are maintaining F-1 nonimmigrant status; and
- (5) Are experiencing severe economic hardship as a direct result of the current crisis in Haiti.

An F-1 nonimmigrant student who does not meet all these requirements is ineligible for the suspension of the applicability of the standard regulatory requirements (even if experiencing severe economic hardship as a direct result of the current crisis in Haiti).

Does this notice apply to a continuing F-1 nonimmigrant student who departs the United States after the effective date of this notice in the Federal Register and who needs to obtain a new F-1 visa before returning to the United States to continue an educational program?

Yes. This notice applies to such an F-1 nonimmigrant student, but only if the DSO has properly notated the student's SEVIS record, which will then appear on the student's Form I-20. The normal rules for visa issuance remain applicable to a nonimmigrant who

needs to apply for a new F-1 visa to continue an educational program in the United States.

Does this notice apply to elementary school, middle school, and high school students in F-1 status?

Yes. However, this notice does not by itself reduce the required course load for F-1 nonimmigrant students from Haiti enrolled in kindergarten through grade 12 at a private school, or grades 9 through 12 at a public high school. Such students must maintain the minimum number of hours of class attendance per week prescribed by the academic institution for normal progress toward graduation, as required under 8 CFR 214.2(f)(6)(i)(E). The suspension of certain regulatory requirements related to employment through this notice is applicable to all eligible F-1 nonimmigrant students regardless of educational level. Eligible F-1 nonimmigrant students from Haiti enrolled in an elementary school, middle school, or high school may benefit from the suspension of the requirement in 8 CFR 214.2(f)(9)(i) that limits on-campus employment to 20 hours per week while school is in session.

On-Campus Employment Authorization

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice be authorized to work more than 20 hours per week while school is in session?

Yes. For an F-1 nonimmigrant student covered in this notice, the Secretary is suspending the applicability of the requirement in 8 CFR 214.2(f)(9)(i) that limits an F-1 nonimmigrant student's on-campus employment to 20 hours per week while school is in session. An eligible F-1 nonimmigrant student has authorization to work more than 20 hours per week while school is in session if the DSO has entered the following statement in the remarks field of the student's SEVIS record, which will be reflected on the student's Form I-20:

Approved for more than 20 hours per week of on-campus employment and reduced course load, under the Special Student Relief authorization from [DSO must insert the beginning date of this notice or the beginning date of the student's employment, whichever date is later] until [DSO must insert the student's program end date or the end date of this notice, whichever date comes first].³¹

To obtain on-campus employment authorization, the F-1 nonimmigrant student must demonstrate to the DSO that the employment is necessary to avoid severe economic hardship directly resulting from the current crisis in Haiti. An F-1 nonimmigrant student authorized by the DSO to engage in on-campus employment by means of this notice does not need to file any applications with U.S. Citizenship and Immigration Services (USCIS). The standard rules permitting full-time employment on-campus when school is not in session or during school vacations apply, as described in 8 CFR 214.2(f)(9)(i).

Will an F-1 nonimmigrant student who receives on-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain his or her F-1 nonimmigrant student status?

Yes. DHS will deem an F-1 nonimmigrant student who receives on-campus employment authorization under this notice to be engaged in a “full course of study”³² for the purpose of maintaining their F-1 nonimmigrant student status for the duration of the on-campus employment, if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F). However, the authorization to reduce the normal course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school

³¹ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a “full course of study,” *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice.

³² *See* 8 CFR 214.2(f)(6).

officials allow an F-1 nonimmigrant student to take a reduced course load if the reduction would not meet the academic institution's minimum course load requirement for continued enrollment.³³

Off-Campus Employment Authorization

What regulatory requirements does this notice temporarily suspend relating to off-campus employment?

For an F-1 nonimmigrant student covered by this notice, as provided under 8 CFR 214.2(f)(9)(ii)(A), the Secretary is suspending the following regulatory requirements relating to off-campus employment:

(a) The requirement that a student must have been in F-1 nonimmigrant student status for one full academic year to be eligible for off-campus employment;

(b) The requirement that an F-1 nonimmigrant student must demonstrate that acceptance of employment will not interfere with the student's carrying a full course of study;

(c) The requirement that limits an F-1 nonimmigrant student's employment authorization to no more than 20 hours per week of off-campus employment while the school is in session; and

(d) The requirement that the student demonstrate that employment under 8 CFR 214.2(f)(9)(i) is unavailable or otherwise insufficient to meet the needs that have arisen as a result of the unforeseen circumstances.

³³ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

Will an F-1 nonimmigrant student who receives off-campus employment authorization under this notice have authorization to reduce the normal course load and still maintain F-1 nonimmigrant status?

Yes. DHS will deem an F-1 nonimmigrant student who receives off-campus employment authorization by means of this notice to be engaged in a “full course of study”³⁴ for the purpose of maintaining F-1 nonimmigrant student status for the duration of the student’s employment authorization if the student satisfies the minimum course load requirement described in this notice, consistent with 8 CFR 214.2(f)(6)(i)(F).

However, the authorization for a reduced course load is solely for DHS purposes of determining valid F-1 nonimmigrant student status. Nothing in this notice mandates that school officials allow an F-1 nonimmigrant student to take a reduced course load if such reduced course load would not meet the school’s minimum course load requirement.³⁵

How may an eligible F-1 nonimmigrant student obtain employment authorization for off-campus employment with a reduced course load under this notice?

An F-1 nonimmigrant student must file a Form I-765, Application for Employment Authorization, with USCIS to apply for off-campus employment authorization based on severe economic hardship directly resulting from the current crisis in Haiti.³⁶ Filing instructions are located at <https://www.uscis.gov/i-765>.

Fee considerations. Submission of a Form I-765 currently requires payment of a \$410 fee. An applicant who is unable to pay the fee may submit a completed Form I-912, Request for Fee Waiver, along with the Form I-765, Application for Employment Authorization. *See* www.uscis.gov/feewaiver. The submission must include an

³⁴ *See* 8 CFR 214.2(f)(6).

³⁵ Minimum course load requirement for enrollment in a school must be established in a publicly available document (e.g., catalog, website, or operating procedure), and it must be a standard applicable to all students (U.S. citizens and foreign students) enrolled at the school.

³⁶ *See* 8 CFR 274a.12(c)(3)(iii).

explanation about why USCIS should grant the fee waiver and the reason(s) for the inability to pay, and any evidence to support the reason(s). *See* 8 CFR 103.7(c).

Supporting documentation. An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship must demonstrate the following to their DSO:

- (1) This employment is necessary to avoid severe economic hardship; and
- (2) The hardship is a direct result of the current crisis in Haiti.

If the DSO agrees that the F-1 nonimmigrant student is entitled to receive such employment authorization, the DSO must recommend application approval to USCIS by entering the following statement in the remarks field of the student's SEVIS record, which will then appear on that student's Form I-20:

Recommended for off-campus employment authorization in excess of 20 hours per week and reduced course load under the Special Student Relief authorization from the date of the USCIS authorization noted on Form I-766 until [DSO must insert the program end date or the end date of this notice, whichever date comes first].³⁷

The F-1 nonimmigrant student must then file the properly endorsed Form I-20 and Form I-765 according to the instructions for the Form I-765. The F-1 nonimmigrant student may begin working off campus only upon receipt of the EAD from USCIS.

DSO recommendation. In making a recommendation that an F-1 nonimmigrant student be approved for Special Student Relief, the DSO certifies that:

³⁷ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirements in this notice.

(a) The F-1 nonimmigrant student is in good academic standing and is carrying a “full course of study”³⁸ at the time of the request for employment authorization;

(b) The F-1 nonimmigrant student is a citizen of Haiti, regardless of country of birth (or an individual having no nationality who last habitually resided in Haiti), and is experiencing severe economic hardship as a direct result of the current crisis in Haiti, as documented on the Form I-20;

(c) The F-1 nonimmigrant student has confirmed that the student will comply with the reduced course load requirements of this notice and register for the duration of the authorized employment for a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if the student is at the graduate level;³⁹ and

(d) The off-campus employment is necessary to alleviate severe economic hardship to the individual as a direct result of the current crisis in Haiti.

Processing. To facilitate prompt adjudication of the student’s application for off-campus employment authorization under 8 CFR 214.2(f)(9)(ii)(C), the F-1 nonimmigrant student should do both of the following:

(a) Ensure that the application package includes the following documents:

(1) A completed Form I-765 with all applicable supporting evidence;

(2) The required fee or properly documented fee waiver request as defined in 8 CFR 103.7(c); and

(3) A signed and dated copy of the student’s Form I-20 with the appropriate DSO recommendation, as previously described in this notice; and

³⁸ See 8 CFR 214.2(f)(6).

³⁹ 8 CFR 214.2(f)(5)(v).

(b) Send the application in an envelope which is clearly marked on the front of the envelope, bottom right-hand side, with the phrase “SPECIAL STUDENT RELIEF.”⁴⁰ Failure to include this notation may result in significant processing delays.

If USCIS approves the student’s Form I-765, USCIS will send the student an EAD as evidence of employment authorization. The EAD will contain an expiration date that does not exceed the end of the granted temporary relief.

Temporary Protected Status (TPS) Considerations

Can an F-1 nonimmigrant student apply for TPS and for benefits under this notice at the same time?

Yes. An F-1 nonimmigrant student who has not yet applied for TPS or for other relief that reduces the student’s course load per term and permits an increased number of work hours per week, such as Special Student Relief,⁴¹ under this notice has two options.

Under the first option, the nonimmigrant student may apply for TPS according to the instructions in the USCIS notice designating Haiti for TPS elsewhere in this issue of the Federal Register. All TPS applicants must file a Form I-821, Application for Temporary Protected Status, with the appropriate fee (or request a fee waiver). Although not required to do so, if F-1 nonimmigrant students want to obtain a new TPS-related EAD that is valid through August 3, 2024, they must file Form I-765 and pay the Form I-765 fee (or request a fee waiver). An F-1 student who already has a TPS-related EAD with a “Card Expires” date of February 3, 2023 will benefit from an automatic extension of the EAD through February 3, 2024, through the Federal Register notice extending the designation of Haiti for TPS. A Haiti TPS-related EAD can also be automatically extended for up to 540 days⁴² if an F-1 nonimmigrant student who is a TPS beneficiary

⁴⁰ Guidance for direct filing addresses can be found here: <https://www.uscis.gov/i-765-addresses>.

⁴¹ See DHS Study in the States, Special Student Relief, <https://studyinthestates.dhs.gov/students/special-student-relief> (last visited Nov. 30, 2022).

⁴² 8 CFR 274a.13(d)(5).

properly files a renewal Form I-765 application and pays the Form I-765 fee (or requests a fee waiver) during the filing period described in the Federal Register notice extending the designation of Haiti for TPS, but no later than February 3, 2023. After receiving the TPS-related EAD, an F-1 nonimmigrant student may request that their DSO make the required entry in SEVIS, issue an updated Form I-20, as described in this notice, and notate that the nonimmigrant student has been authorized to carry a reduced course load and is working pursuant to a TPS-related EAD. So long as the nonimmigrant student maintains the minimum course load described in this notice, does not otherwise violate their nonimmigrant status, including as provided under 8 CFR 214.1(g), and maintains TPS, then the student maintains F-1 status and TPS concurrently.

Under the second option, the nonimmigrant student may apply for an EAD under Special Student Relief by filing Form I-765 at the location specified in the filing instructions. At the same time, the F-1 nonimmigrant student may file a separate TPS application but must submit the Form I-821 according to the instructions provided in the Federal Register notice designating Haiti for TPS. If the F-1 nonimmigrant student has already applied for employment authorization under Special Student Relief, they are not required to submit the Form I-765 as part of the TPS application. However, some nonimmigrant students may wish to obtain a TPS-related EAD in light of certain extensions that may be available to EADs with an A-12 or C-19 category code. The nonimmigrant student should check the appropriate box when filling out Form I-821 to indicate whether a TPS-related EAD is being requested. Again, so long as the nonimmigrant student maintains the minimum course load described in this notice and does not otherwise violate the student's nonimmigrant status, included as provided under 8 CFR 214.1(g), the nonimmigrant will be able to maintain compliance requirements for F-1 nonimmigrant student status while having TPS.

When a student applies simultaneously for TPS and benefits under this notice, what is the minimum course load requirement while an application for employment authorization is pending?

The F-1 nonimmigrant student must maintain normal course load requirements for a “full course of study”⁴³ unless or until the nonimmigrant student receives employment authorization under this notice. TPS-related employment authorization, by itself, does not authorize a nonimmigrant student to drop below twelve credit hours, or otherwise applicable minimum requirements (e.g., clock hours for non-traditional academic programs). Once approved for Special Student Relief employment authorization, the F-1 nonimmigrant student may drop below twelve credit hours, or otherwise applicable minimum requirements (with a minimum of six semester or quarter hours of instruction per academic term if at the undergraduate level, or for a minimum of three semester or quarter hours of instruction per academic term if at the graduate level). *See* 8 CFR 214.2(f)(5)(v), (f)(6), and (f)(9)(i) and (ii).

How does a student who has received a TPS-related EAD then apply for authorization to take a reduced course load under this notice?

There is no further application process with USCIS if a student has been approved for a TPS-related EAD. The F-1 nonimmigrant student must demonstrate and provide documentation to the DSO of the direct economic hardship resulting from the current crisis in Haiti. The DSO will then verify and update the student’s record in SEVIS to enable the F-1 nonimmigrant student with TPS to reduce the course load without any further action or application. No other EAD needs to be issued for the F-1 nonimmigrant student to have employment authorization.

⁴³ *See* 8 CFR 214.2(f)(6).

Can a noncitizen who has been granted TPS apply for reinstatement of F-1 nonimmigrant student status after the noncitizen's F-1 nonimmigrant student status has lapsed?

Yes. Regulations permit certain students who fall out of F-1 nonimmigrant student status to apply for reinstatement. *See* 8 CFR 214.2(f)(16). This provision might apply to students who worked on a TPS-related EAD or dropped their course load before the date of publication of this notice, and therefore fell out of student status. These students must satisfy the criteria set forth in the F-1 nonimmigrant student status reinstatement regulations.

How long will this notice remain in effect?

This notice grants temporary relief until August 3, 2024,⁴⁴ to eligible F-1 nonimmigrant students. DHS will continue to monitor the situation in Haiti. Should the special provisions authorized by this notice need modification or extension, DHS will announce such changes in the Federal Register.

Paperwork Reduction Act (PRA)

An F-1 nonimmigrant student seeking off-campus employment authorization due to severe economic hardship resulting from the current crisis in Haiti must demonstrate to the DSO that this employment is necessary to avoid severe economic hardship. A DSO who agrees that a nonimmigrant student should receive such employment authorization must recommend an application approval to USCIS by entering information in the remarks field of the student's SEVIS record. The authority to collect this information is

⁴⁴ Because the suspension of requirements under this notice applies throughout an academic term during which the suspension is in effect, DHS considers an F-1 nonimmigrant student who engages in a reduced course load or employment (or both) after this notice is effective to be engaging in a "full course of study," *see* 8 CFR 214.2(f)(6), and eligible for employment authorization, through the end of any academic term for which such student is matriculated as of August 3, 2024, provided the student satisfies the minimum course load requirement in this notice. DHS also considers students who engage in online coursework pursuant to ICE coronavirus disease 2019 (COVID-19) guidance for nonimmigrant students to be in compliance with regulations while such guidance remains in effect. *See* ICE Guidance and Frequently Asked Questions on COVID-19, Nonimmigrant Students & SEVP-Certified Schools: Frequently Asked Questions, <https://www.ice.gov/coronavirus> (last visited Nov. 30, 2022).

in the SEVIS collection of information currently approved by the Office of Management and Budget (OMB) under OMB Control Number 1653-0038.

This notice also allows an eligible F-1 nonimmigrant student to request employment authorization, work an increased number of hours while the academic institution is in session, and reduce their course load while continuing to maintain F-1 nonimmigrant student status.

To apply for employment authorization, certain F-1 nonimmigrant students must complete and submit a currently approved Form I-765 according to the instructions on the form. OMB has previously approved the collection of information contained on the current Form I-765, consistent with the PRA (OMB Control No. 1615-0040). Although there will be a slight increase in the number of Form I-765 filings because of this notice, the number of filings currently contained in the OMB annual inventory for Form I-765 is sufficient to cover the additional filings. Accordingly, there is no further action required under the PRA.

Alejandro Mayorkas,

Secretary,

U.S. Department of Homeland Security

[FR Doc. 2023-01593 Filed: 1/25/2023 8:45 am; Publication Date: 1/26/2023]